

**LAND AUTHORITY GOVERNING BOARD
AGENDA ITEM SUMMARY**

Meeting Date: September 20, 2006

Division: Land Authority

Bulk Item: Yes ☐ No ☒

Staff Contact Person: Mark Rosch

Agenda Item Wording: Approval of contracts to purchase the Sea Grape Apartments site in Marathon (RE #103560-000200) as an affordable housing site.

Item Background: The Sea Grape Apartments site is located near MM 50.5 on the oceanside in Marathon. The site is zoned Urban Residential with a habitat classification of disturbed with exotics. Marathon City Council Resolution 2005-004 nominates the site for acquisition for affordable housing. The Carlisle Group submitted this site in response to the BOCC's request for proposals for purchase/leaseback affordable housing sites. Carlisle proposes to develop the site with a total of 84 affordable units in two phases using construction financing from the Florida Housing Finance Corporation. The proposed contracts anticipate the following steps: 1) the Land Authority will purchase the entire site for a total of \$1,400,000 (\$933,333 for Phase I and \$466,667 for Phase II); 2) the Land Authority will transfer title to the BOCC; and 3) the BOCC will lease the property back to the Sellers for development. Approval of this agenda item will allow staff to proceed with step 1.

Advisory Committee Action: On August 23, 2006 the Committee voted 4/0 to approve the proposed contracts.

Previous Governing Board Action: On June 16, 2004 the Board approved adding the site to the Acquisition List.

Contract/Agreement Changes: N/A

Staff Recommendation: Approval

Total Cost: \$1,421,759

Budgeted: Yes ☒ No ☐.

Cost to Land Authority: \$1,421,759

Source of Funds: Land Authority
(Tourist Impact Tax and State Park Surcharge)

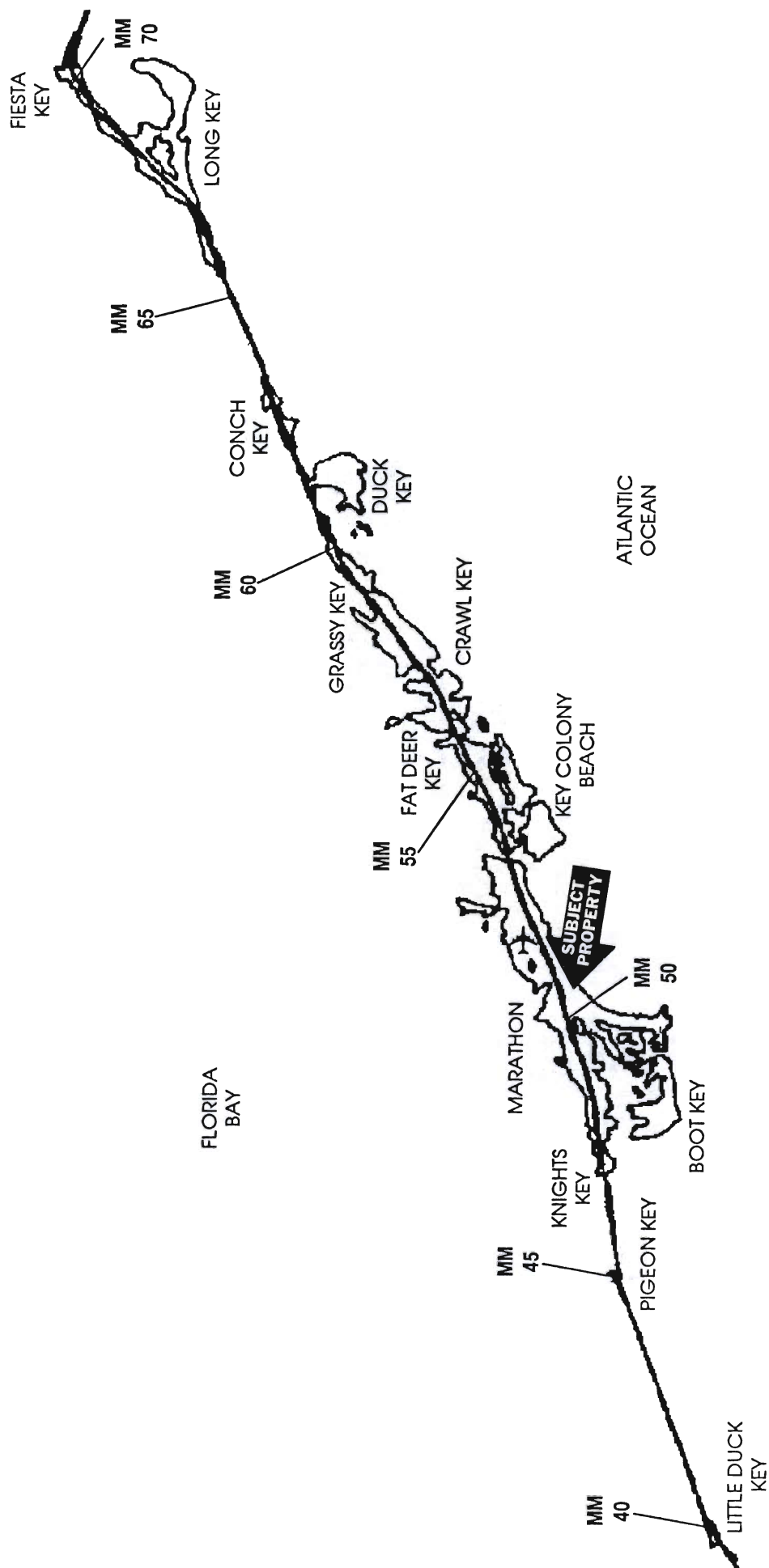
Approved By: Attorney ☒ County Land Steward ☐.

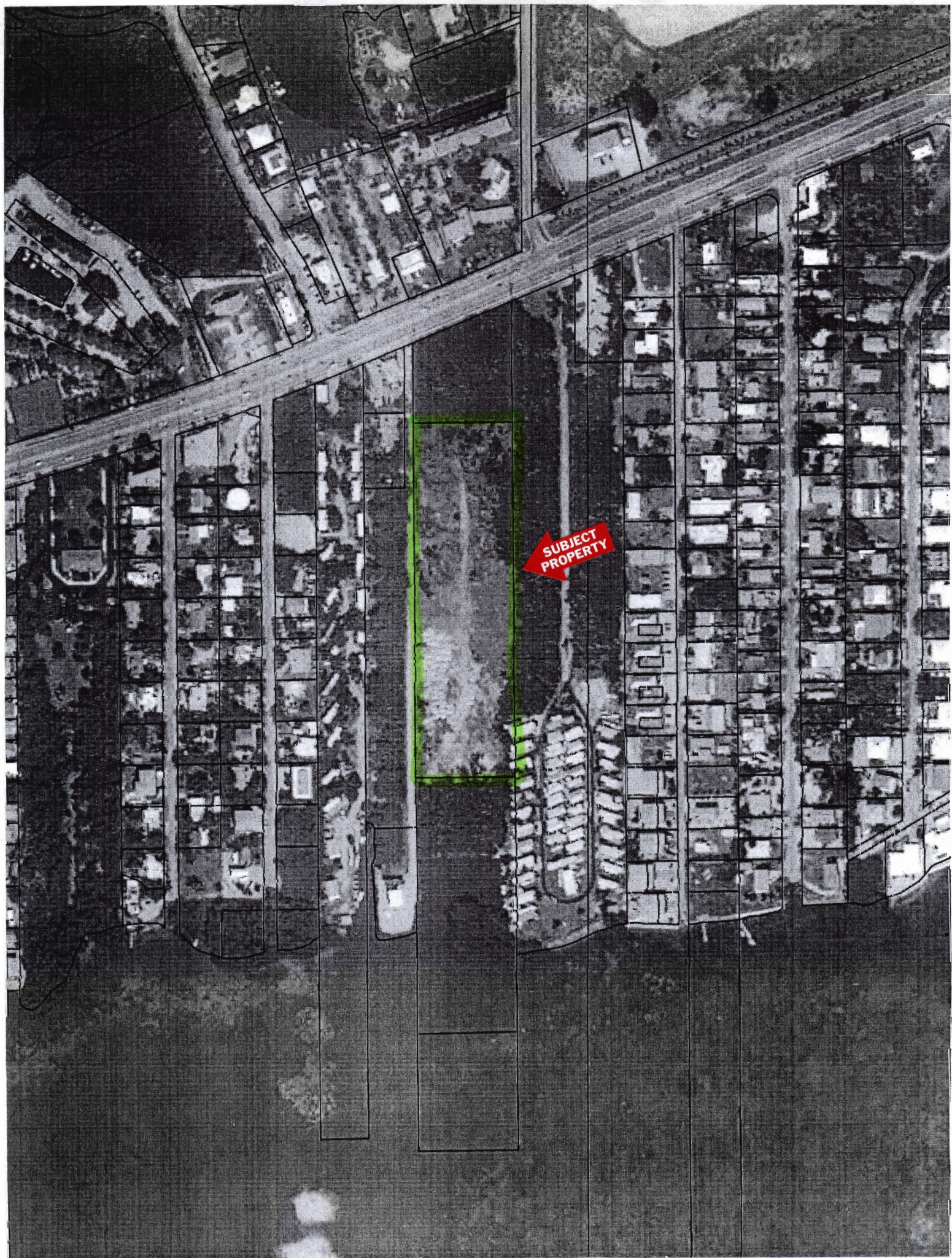
Documentation: Included: ☒ To Follow: ☐ Not Required: ☐.

Disposition: _____ Agenda Item _____

PURCHASE CONTRACTS
09/20/06

<u>Property</u>	<u>Purchase Price</u>	<u>Envr. Audit, Survey or Clean-up</u>	<u>Title Insurance</u>	<u>Attorney Fee</u>	<u>Recording Fee</u>	<u>Acquisition Total</u>
Vaca Key Acreage						
RE#00103560-000200						
Sea Grape Apartments, Ltd. - Phase I	\$933,333.00	\$6,650.00	\$4,870.00	\$500.00	\$27.00	\$945,380.00
Sea Grape II, Ltd. - Phase II	<u>\$466,667.00</u>	\$6,650.00	\$2,535.00	\$500.00	\$27.00	<u>\$476,379.00</u>
	\$1,400,000.00					\$1,421,759.00





AGREEMENT FOR THE PURCHASE OF LANDS

THIS AGREEMENT is made and entered into this 15th day of August, 2006, is by and between SEA GRAPE APARTMENTS, LTD., A FLORIDA LIMITED PARTNERSHIP (hereinafter "Seller") and the MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY (hereinafter, "Land Authority") acting by and through the Executive Director of the LAND AUTHORITY.

WITNESSETH:

1. In consideration of Ten Dollars (\$10.00) in hand, paid by the LAND AUTHORITY, the receipt of which is hereby acknowledged, the Seller agrees to sell to the LAND AUTHORITY certain lands upon the terms and conditions hereinafter set forth, and for the price of **\$933,333** for all of the lands and other interests, which lands shall include all tenements, hereditaments, together with all water and other rights, easements, appurtenances, and any and all of the Seller's rights in or arising by reason of ownership thereunto belonging, owned by them, situate and lying in the County of Monroe, State of Florida, more particularly described as follows; to-wit:

**The parcel identified as Phase I in Exhibit A.
RE# 103560-000200**

2. The Seller agrees that it has full right, power and authority to convey, and that it will convey to the LAND AUTHORITY the fee simple title together with legal and practical access thereto clear, free and unencumbered, except subject to the following easements or reservations:

Existing easements and agreements for (i) access by an adjoining owner to its land, (ii) sewer treatment plant construction and maintenance with an adjacent owner and (iii) canals, ditches, flumes, pipelines, railroads, public highways and roads, telephone, telegraph, power transmission lines and public utilities.

The LAND AUTHORITY, at the LAND AUTHORITY'S expense, within the time allowed to deliver evidence of title and to examine same, may have the real property surveyed and certified by a registered Florida surveyor. If the survey discloses encroachments on the real property or that improvements located thereon encroach on setback lines, easements, lands of others, or violate any restrictions, contract covenants, or applicable governmental regulations, the same shall constitute a title defect.

Seller shall convey marketable title subject only to the aforementioned liens, encumbrances, exceptions or qualification set forth herein. Marketable title shall be determined according to applicable title standards adopted by authority of the Florida Bar and in accordance with law. The LAND AUTHORITY shall have sixty (60) days from receipt of the environmental site assessment described in Section 13, below, in which to examine title. If title is found defective, the LAND AUTHORITY shall, within this specified time period, notify Seller in writing specifying defect(s). If the defect(s) render title unmarketable the Seller may, but shall have no duty to, remove the defect(s) within one hundred twenty (120) days from receipt of notice, failing which the LAND AUTHORITY shall have the option of either accepting the title as it then is or rescinding the contract herein; thereupon the LAND AUTHORITY and the Seller shall release one another of all further obligations under this Agreement.

3. The Seller further agrees not to do, or suffer others to do, any act by which the value or title to said lands may be diminished or encumbered. It is further agreed that any loss or damage occurring prior to the vesting of satisfactory title in the LAND AUTHORITY by reasons of the unauthorized cutting or removal of products therefrom, or because of fire, shall be borne by the Seller; and that,

in the event any such loss or damage occurs, the LAND AUTHORITY may refuse, without liability, to accept conveyance of said lands, or it may elect to accept conveyance upon an equitable adjustment of the purchase price.

4. The Seller further agrees that during the period covered by this instrument officers and accredited agents of the LAND AUTHORITY shall have at all proper times the unrestricted right and privilege to enter upon said lands for all proper and lawful purposes, including examination of said lands and the resources upon them. LAND AUTHORITY hereby agrees to indemnify Seller and hold Seller harmless against all claims, demands and liability, for nonpayment for services rendered to LAND AUTHORITY, for construction liens, or for damage to persons or property arising out of LAND AUTHORITY's investigation of the land. Seller hereby agrees to indemnify LAND AUTHORITY and hold it harmless against all claims, damages, demands and liability suffered by LAND AUTHORITY during the course of its inspections of the land, arising out of Seller's negligent or willful misconduct in its owning and maintaining the land. Notwithstanding anything to the contrary set forth in this Contract, the indemnifications and agreements to hold harmless set forth in this section shall survive the closing or the earlier termination of this Contract.
5. The Seller will execute and deliver upon demand of the proper officials and agents of the LAND AUTHORITY a good and sufficient special warranty deed conveying to the LAND AUTHORITY title to the said lands of such character as to be satisfactory to the legal counsel of the LAND AUTHORITY and in accordance with the terms and conditions of this Contract. To the extent that said deed includes reservations for rights of way or easements in favor of the Seller, the deed shall provide that the use, occupation and operation of the rights-of-way, easements and reservations retained therein, shall be subordinate to and subject to such rules and regulations as may be reasonably prescribed by the LAND AUTHORITY governing the use, occupation, protection and administration of lands.
6. In consideration whereof the LAND AUTHORITY agrees that it will purchase all of said lands and other interests at the price of **\$933,333.00**. The LAND AUTHORITY further agrees that, simultaneously with the execution of the deed and delivery of same to the Land Authority's counsel for recording, as closing agent, it will cause to be paid to the Seller the purchase price by a check drawn on the account of the LAND AUTHORITY. The LAND AUTHORITY shall pay the following expenses associated with the conveyance of the property: deed recording fees, settlement fees, abstract fees, title examination fees, the LAND AUTHORITY's attorney's fees, and title insurance, as well as the prorata share of prepaid real property taxes allocable to the period subsequent to the vesting of title in the LAND AUTHORITY, or the effective date of possession of such real property by the same, whichever is earlier. The Seller shall pay the expenses of documentary stamps to be affixed to the deed and the removal of trash, debris, and structures from the property, if any. Full possession of the premises shall pass to the LAND AUTHORITY as of the date payment is made to the Seller subject only to the reservations stated in Section 2 above. The closing shall occur on or before November 30, 2006, subject to such extensions as may be a function of the Seller's exercise of its cure duties set forth in Section 2 and Section 13 of the this Contract.
7. It is mutually agreed that an abstract, title insurance policy or other evidence of title to the property herein contracted to be sold, satisfactory to the legal counsel of the LAND AUTHORITY will be obtained by the LAND AUTHORITY at its expense. The Seller expressly agrees herein to furnish to the LAND AUTHORITY any documents in Seller's possession establishing evidence of title including, but not limited to, abstracts, title commitments, title policies and opinions of title.
8. It is mutually understood and agreed that, pursuant to the provisions of Section 15 below, the LAND AUTHORITY will be conveying the land to the Monroe County Board of Commissioners,

which will in turn be leasing the subject land to the Seller or its affiliated entity or entities, pursuant to a ground lease or leases to be executed at a later date. The Land Authority may assign this contract, but such assignment shall contain an express acknowledgment of the provisions of Section 15 hereof.

9. It shall be the obligation of the Seller to pay all taxes and assessments outstanding as liens at the date title vests of record in the LAND AUTHORITY, provided such taxes and assessments are then due and payable. If not then due and payable, Seller shall provide a credit to the Land Authority in an amount equal to the prorated portion of such tax or assessment applicable to the Seller's period of ownership of the land.
10. It is mutually understood and agreed that notice of acceptance of this agreement shall be given to the Seller within five (5) days following execution hereof by the LAND AUTHORITY, by mail addressed to the Seller at the following address:

**2950 SW 27th Avenue
Suite 200
Miami, FL 33133**

and shall be effective on the date of Seller's receipt of the mailed notice.

11. The property shall be delivered at closing free of any tenant or occupancy whatsoever.
12. The effective date of this agreement shall be that date when the last of the Seller and the LAND AUTHORITY has signed this agreement.
13. The LAND AUTHORITY shall have sixty (60) days from the effective date of this agreement in which to conduct an environmental site assessment to determine the existence and extent, if any, of any hazardous materials on the property. For the purposes of this agreement, "hazardous materials" shall mean any hazardous or toxic substance, material or waste of any kind or any other substance which is regulated by any environmental law. If the environmental site assessment identifies the presence of hazardous materials on the property, the LAND AUTHORITY shall, within this specified time period, notify Seller in writing of the findings. The Seller will then have one hundred twenty (120) days from receipt of notice within which to pursue, at Seller's sole cost and expense, any assessment, clean-up, and monitoring of the Property necessary to bring the Property into full compliance with any and all applicable federal, state or local laws, failing which the LAND AUTHORITY shall have the option of either accepting the property as it then is or rescinding the contract herein; thereupon the LAND AUTHORITY and the Seller shall release one another of all further obligations under this Agreement.
14. If the Seller wishes to proceed with this transaction, the Seller have until **August 1, 2006** to sign and return this contract to the LAND AUTHORITY. Notwithstanding any provision of this Agreement to the contrary, the closing of this transaction is contingent upon approval by the Governing Board of the LAND AUTHORITY, which shall be obtained by no later than November 30, 2006, failing which either party shall have the right to terminate this Agreement by providing written notice, at which point both parties shall be released of all further obligations under this Agreement.
15. The LAND AUTHORITY intends to purchase the subject property as an affordable housing site in partnership with the Monroe County Board of County Commissioners. Notwithstanding any provision of this Agreement to the contrary, the closing of this transaction is contingent upon:

- a) the Monroe County Board of County Commissioners agreeing to accept title to the property from the LAND AUTHORITY with said title encumbered with affordable housing deed restrictions; and
- b) the Seller and the Monroe County Board of County Commissioners entering into a mutually acceptable lease agreement for the subject property, which lease shall, among other provisions, include a contingency for the receipt by Seller of an allocation of low income housing tax credits; and
- c) the simultaneous closing of that certain Agreement For the Purchase of Lands by and between the LAND AUTHORITY and Sea Grape II, Ltd., an affiliate of the Seller, for the purchase and sale of land adjacent to the subject property (the "Companion Contract"). The parties agree that the closing of this transaction and the closing of the transaction described in the Companion Contract shall be effected together and a breach by a party under either of said contracts shall be a breach under both of them.

In the event these contingencies are not satisfied by November 30, 2006, both the LAND AUTHORITY and the Seller shall have the right to terminate this Agreement by providing written notice, at which point both parties shall be released of all further obligations under this Agreement.

SIGNATURES APPEAR ON FOLLOWING PAGES

IN WITNESS WHEREOF, the Seller has hereunto signed its name on the day first above written.

SELLER:

Sea Grape Apartments , Ltd., a Florida Limited Partnership

**By: TCG Sea Grape, LLC, a Florida limited liability company,
as its sole general partner**


**By: Lloyd J. Boggio,
as its Manager**

Date: 8/1/2006


Federal Tax ID Number: 20-4202640

Phone Number: (305) 476-8118

LAND AUTHORITY:

The MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY, acting by and through its EXECUTIVE DIRECTOR, has executed this agreement on behalf of the MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY this 15th day of August, 2006.

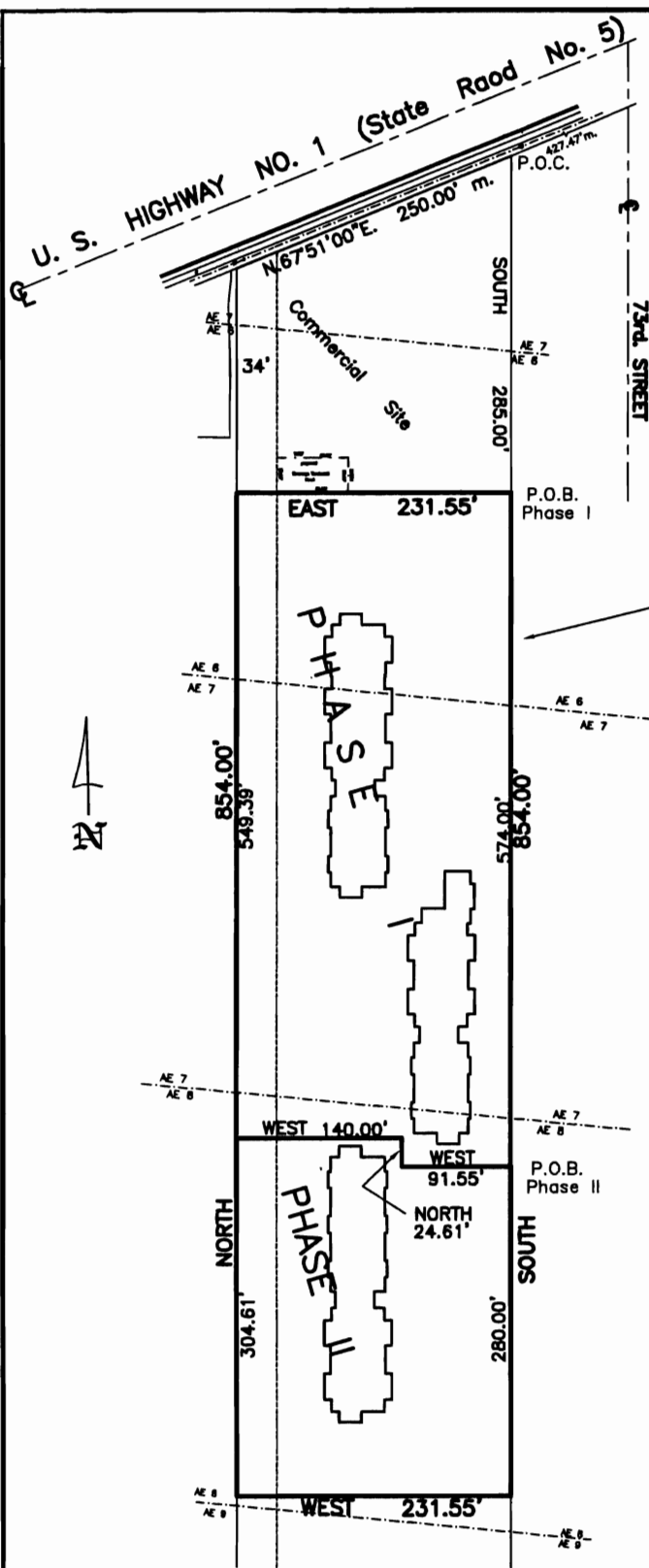
MONROE COUNTY COMPREHENSIVE
PLAN LAND AUTHORITY



Mark J. Rosch, Executive Director

(Seal)
18 24

Exhibit A



Phase i:

A parcel of land in Section 11, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida, more particularly described as follows:

Begin at the intersection of the East line of said Section 11 and the Southeasterly right of way line of U.S. Highway 1; thence South along the said East line of Section 11 for 285.00 feet to the Point of Beginning; thence continue South for 574.00 feet; thence West for 91.55 feet; thence North for 24.61 feet; thence West for 140.00 feet; thence North for 549.39 feet; thence East for 231.55 feet to the Point of Beginning;

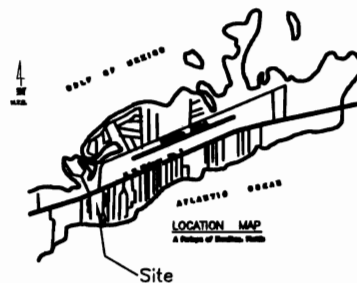
Containing 129463 s.f. or 2.97 acres, more or less.

Phase II:

A parcel of land in Section 11, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida, more particularly described as follows:

Begin at the intersection of the East line of said Section 11 and the Southeasterly right of way line of U.S. Highway 1; thence South along the said East line of Section 11 for 859.00 feet to the Point of Beginning; thence continue South for 280.00 feet; thence West for 231.55 feet; thence North for 304.61 feet; thence East for 140.00 feet; thence South for 24.61 feet; thence east for 91.55 feet to the Point of Beginning;

Containing 68279 s.f. or 1.57 acres, more or less.



SeaGrape Ltd., a Florida Limited Partnership
U.S. Highway No. 1, Marathon, Florida

Sketch to accompany Legal Description
Phase I & II

Scale: 1"=120'

Ref.

Flood panel No. 1379 K

Dwn. By: F.H.H.

Date: 7/28/06

Flood Zone: AE

Flood Elev.

REVISIONS AND/OR ADDITIONS

FREDERICK H. HILDEBRANDT
ENGINEER PLANNER SURVEYOR

3150 Northside Drive
Suite 101
Key West, Fl. 33040
(305) 293-0466
Fax. (305) 293-0237

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WITNESSETH:

1. In consideration of Ten Dollars (\$10.00) in hand, paid by the LAND AUTHORITY, the receipt of which is hereby acknowledged, the Seller agrees to sell to the LAND AUTHORITY certain lands upon the terms and conditions hereinafter set forth, and for the price of **\$466,667** for all of the lands and other interests, which lands shall include all tenements, hereditaments, together with all water and other rights, easements, appurtenances, and any and all of the Seller's rights in or arising by reason of ownership thereunto belonging, owned by them, situate and lying in the County of Monroe, State of Florida, more particularly described as follows; to-wit:

**The parcel identified as Phase II in Exhibit A.
RE# 103560-000200**

2. The Seller agrees that it has full right, power and authority to convey, and that it will convey to the LAND AUTHORITY the fee simple title together with legal and practical access thereto clear, free and unencumbered, except subject to the following easements or reservations:

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SIGNATURES APPEAR ON FOLLOWING PAGES

IN WITNESS WHEREOF, the Seller has hereunto signed its name on the day first above written.

SELLER:

Sea Grape II, Ltd., a Florida Limited Partnership

**By: CDG Sea Grape II, LLC, a Florida limited liability company,
as its sole general partner**


**By: Lloyd J. Boggio,
as its Manager**

Date: 8/1/2006

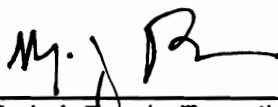
Federal Tax ID Number: 20-5214086

Phone Number: (305) 476-8118

LAND AUTHORITY:

The MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY, acting by and through its EXECUTIVE DIRECTOR, has executed this agreement on behalf of the MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY this 15th day of August, 2006.

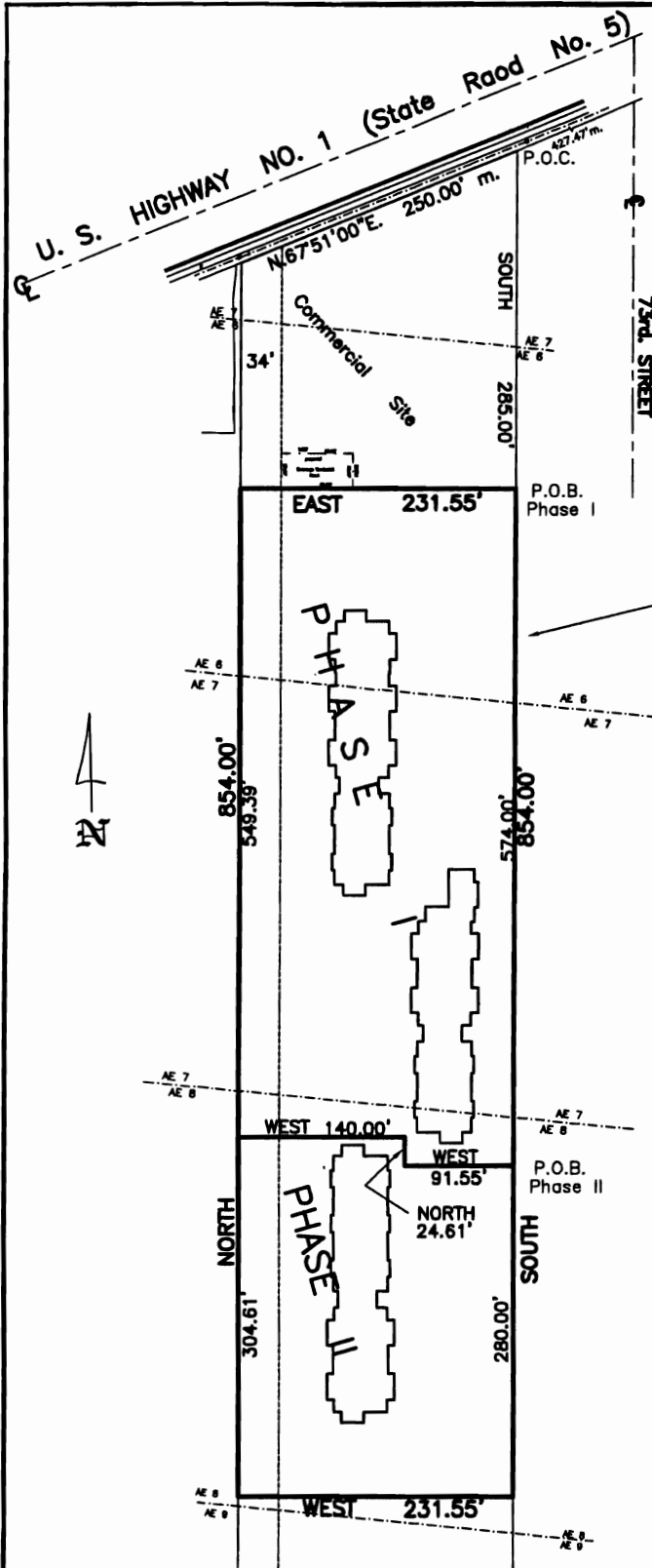
MONROE COUNTY COMPREHENSIVE
PLAN LAND AUTHORITY



Mark J. Resch, Executive Director



Exhibit A



Phase i:

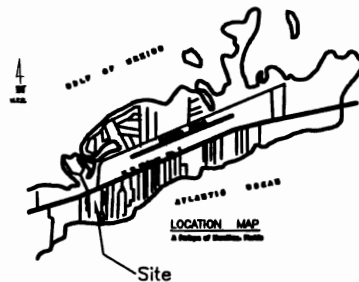
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Phase II:

A parcel of land in Section 11, Township 66 South, Range 32 East, Key Vaca, Monroe County, Florida, more particularly described as follows:

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SeaGrape Ltd., a Florida Limited Partnership
U.S. Highway No. 1, Marathon, Florida

Sketch to accompany Legal Description
Phase I & II

Dwn No.:
06-409

Scale: 1"=120'

Ref..

Flood panel No.
1379 K

Dwn. By: F.H.H.

Date: 7/28/06

Flood Zone: AE

Flood Elev.

REVISIONS AND/OR ADDITIONS

FREDERICK H. HILDEBRANDT
ENGINEER PLANNER SURVEYOR

3150 Northside Drive
Suite 101
Key West, Fl. 33040
(305) 293-0466
Fax. (305) 293-0237